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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,991	07/09/2003	Federico Guillermo Jaekel	076029-0304408	9238

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EXAMINER
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RODRIGUEZ, PAMELA

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/614,991	<b>Applicant(s)</b> JAEKEL, FEDERICO GUILLERMO	
	<b>Examiner</b> Pam Rodriguez	<b>Art Unit</b> 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 12, 2005 has been entered.

### ***Claim Objections***

2. Claims 6 and 7 are objected to because of the following informalities: as they depend from canceled Claim 5. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-4 and 6-14, and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said portions" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-14, and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 5-52235 to Watanabe in view of U.S. Patent No. 3,770,290 to Bottalico.

Regarding Claim 1, Watanabe discloses a suspension system capable of use on a vehicle (see Figure 1) having most all the features of the instant invention including: a damping device 11/12 having a piston 12 that telescopically mates with a cylinder 11 moveable in opposite directions toward and away from one another (see Figure 1), wherein one of the piston and cylinder is capable of being adapted to be coupled to a motor vehicle frame (via element 14 or the mount for rod 13) and the other of the piston and cylinder is capable of being adapted to be coupled to a motor vehicle wheel mount structure (via either element 14 or the mount for rod 13), wherein the damping device is adapted to dampen movement of the piston and cylinder toward or away from one another, and first and second magnetic structures 17 connected to the piston and cylinder (at least to the same extent as applicant's), and wherein the first and second magnetic structures 17 are disposed radially outwardly from the damping device 11/12.

However, Watanabe is silent as to the magnetic poles of the first and second magnetic structures being alike so as to oppose one another to create a resilient

magnetic bias to repel the piston and cylinder during a relative movement of the piston and cylinder toward one another.

Bottalico is relied upon merely for his teachings of a vehicle suspension system (see Figures 1-3) having first and second magnetic structures 11 or 11' and 12 or 12' having like magnetic poles opposing one another (see Figure 3) to create a resilient magnetic bias to repel the first and second portions 22 and 23 during a relative movement of the portions toward one another (see column 2 lines 12-30 and column 3 lines 7-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the magnets of the Watanabe reference so that their poles would be alike as taught by Bottalico in order to provide an additional damping capability to the suspension system. By creating a repulsion force between the magnets, another means of regulating the damping of the vehicle in addition to the piston and cylinder damping means would be realized.

Regarding Claim 2, Watanabe do not disclose an outer structure adapted to receive and contain the damping device and the first and second magnetic structures.

Bottalico is again relied upon for his teachings of the vehicle suspension system in Figures 1-3 which discloses an outer structure 22/23 adapted to receive and contain the damping device/magnets.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the suspension system of Watanabe with the outer structure as taught by Bottalico in order to provide a housing for the magnets and

damper to keep debris or any other such contaminants away from the damper components.

Regarding Claim 3, see Figure 2 and column 2 lines 26-30 of Bottalico and the interior surface of housing portions 22 and 23 in which magnets 11 and 12 slide therein.

Regarding Claim 4, see the interior surfaces of portions 22 and 23 of Bottalico, wherein they form fluid tight seals between these portions and the left and right sides of the magnetic portions 11 and 12.

Regarding Claim 6, see the cavity formed between magnets 11 and 12, an outer surface of the damping device 17 and the outer structure 22/23 of Bottalico, wherein inherently a pressurized gas (air) is disposed therein.

Regarding Claim 7, note that the gas present within the cavity described in Claim 6 would inherently bias the magnetic structures 11 and 12 away from one another at least to the same extent as applicant's.

Regarding Claim 8, see the lower flared portions of outer structure portion 22 which act as "boots" as they would absorb at least some shock to the suspension system.

Regarding Claim 9, Watanabe, as modified, does not specifically disclose that the damping device is a twin-tube shock absorber.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the damping device of Watanabe, as modified, to be a twin tube shock absorber as a matter of design preference, dependent upon the desired damping characteristics of the suspension system. A twin tube shock absorber

is merely another type of damping means. So substituting a twin tube shock for a single tube would merely be an alternate equivalent means of providing the damping function.

Regarding Claim 10, Bottalico discloses that the damping device can be a conventional automotive shock absorber (see column 1 line 66 – column 2 line 3).

Regarding Claim 11, see Figure 1 of Watanabe.

Regarding Claim 12, see the apertures extending through the magnetic structures 17 of Watanabe, wherein the cylinder 11 and consequently the piston would be received therein.

Regarding Claim 13, see Figure 1 of Watanabe which appears to disclose multiple magnets within each magnetic assembly 17.

Regarding Claim 14, see Claims 1 and 12 above, wherein the first magnetic structure is readable as lower element 17 which connects to the piston 12 through the cylinder 11 to the same extent as applicant's and the second magnetic structure is readable as upper element 17.

Regarding Claim 17, see Claim 2.

Regarding Claim 18, see Claim 3.

Regarding Claim 19, see Claim 4.

Regarding Claim 20, see Claim 6.

Regarding Claim 21, see Claim 1 above and further note first chamber 11a/11b in Figure 1 of Watanabe.

Regarding Claim 22, Watanabe, as modified, discloses most all the features of the instant invention including: an outer structure 22/23 disposed radially outwardly

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from the "shock absorber" 17 and the magnetic structures 11 and 12, a fluid tight seal being formed between the outer structure 22/23 and the magnets (see Figure 2 of Bottalico and note how at least the left and right sides of magnets 11 and 12 form fluid tight seals with the interior outer structure portions 22 and 23), a second fluid chamber having chamber walls defined by magnets 11 and 12, an outer surface of shock absorber 17 and an interior surface of the outer structure 22/23 (see Figure 2 of Bottalico), and a pressurized gas (air) disposed with the second chamber, wherein the second chamber would be disposed radially outwardly from the first chamber 11a/11b of Watanabe.

However, Watanabe, as modified, do not disclose that the second chamber is fluid tight.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the second chamber of Watanabe, as modified, to be fluid tight in order to prevent any debris or contaminants from collecting on the magnets or damping device. A fluid tight chamber would fully enclose all these components keeping them from any harmful effects from the outside operating environment.

Regarding Claim 23, the outer structure 22/23 of Bottalico would be radially spaced from the first chamber 11a/11b of the Watanabe reference.



***Response to Arguments***

6. Applicant's arguments with respect to claims 1-4, 6-14, and 17-23 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM -4 PM and Tuesdays 5 AM -11 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
10/25/05

Pr  
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